

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 544 of 1996

in

SPECIAL CIVIL APPLICATION No 3085 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

MALAJI CHHAGANJI THAKOR

Versus

STATE OF GUJARAT

Appearance:

MR AJ PATEL for Appellants

MR KG SHETH, AGP, for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE A.L.DAVE

Date of decision: 03/11/1999

ORAL JUDGEMENT (Per Panchal, J.)

1. This appeal, which is filed under Clause 15 of the Letters Patent, is directed against judgment dated April 24, 1996, rendered by the learned Single Judge in

Special Civil Application No.3085 of 1996, by which order passed by the State Government under Section 34 of the Urban Land (Ceiling and Regulation) Act, 1976 is upheld.

2. The appellants had filed forms under section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 ("the Act" for short). The Competent Authority and Deputy Collector, Urban Land Ceiling, Ahmedabad, by order dated December 31, 1993 held that the appellants were in possession of excess land admeasuring 697 sq. metres. That order was taken into suo motu revision by the Government in exercise of powers under Section 34 of the Act. The Government by order dated February 13, 1995, held that the appellants were in possession of excess land admeasuring 2394 sq. metres. The order passed by the State Government under Section 34 of the Act was challenged by the appellants in Special Civil Application No.3085 of 1996. The learned Single Judge summarily rejected the petition by judgment dated April 24, 1996, giving rise to the present appeal.

3. Mr. K.G. Sheth, learned Assistant Government Pleader has produced a letter dated November 11, 1999, addressed by the Competent Authority and Deputy Collector, Urban Land Ceiling, Ahmedabad to the Government Pleader, Gujarat High Court, Ahmedabad, wherein it is, inter alia, stated that proceedings with reference to land in question were completed upto the stage of notification under Section 10(3) of the Act, but possession of the land was not taken over. By the said letter, the Government Pleader has been instructed to make appropriate representation before the Court with reference to Special Civil Application No.3085 of 1996. The letter produced by the learned Assistant Government Pleader is ordered to be taken on the record of the case.

4. It may be mentioned that the Parliament has enacted the Urban Land (Ceiling and Regulation) Repealing Act, 1999, by which Urban Land (Ceiling and Regulation) Act, 1976 is repealed. Section 4 of the repealing Act provides that all proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act before any Court, Tribunal or other authority shall abate. The proviso to the said section specifies that Section 4 shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the Competent Authority. The record does

not indicate that possession of the land in question has been taken over by the State Government. On the contrary, the contents of letter dated November 1, 1999, addressed by the Competent Authority and Deputy Collector, Urban Land Ceiling, Ahmedabad, clearly indicates that possession of the land has not been taken over. Therefore, it will have to be held that the Letters Patent Appeal has abated. As the Letters Patent Appeal has abated, the same deserves to be disposed of accordingly.

#. For the foregoing reasons, it is held that the Letters Patent Appeal has abated. We make it clear that we have not pronounced upon legality or otherwise of the order which was subject matter of challenge by the appellants in the petition and which was passed by the State Government under Section 34 of the Repealed Act. We make it clear that, it will be open to the appellants to point out to the Competent Authority that the proceedings have abated in view of the provisions of the Urban Land (Ceiling and Regulation) Repealing Act, 1999. The Letters Patent Appeal is dismissed as having abated with no orders as to costs.

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